HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. : 1455 of 2007.
Decided on: 26.9.2007.

Union of India and another ..... Petitioners.

Versus

Mrs.Parmod Gupta .....Respondent.

Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.
The Hon'ble Mr.Justice V.K. Ahuja, Judge.

Whether approved for reporting? No.

For the petitioners: Mr.Janesh Mahajan, Central Govt. Counsel.

For the respondent: Mr.Prashant Kanwar & Mr.Rajiv Jiwan, Advocates.

Per V.K. Ahuja, J:

This is a writ petition filed by the petitioner under Article 226 of the Constitution of India against the order passed by the learned Central Administrative Tribunal (hereinafter to be referred as CAT) on May 17, 2007.

Briefly stated the facts of the case are that respondent was initially appointed in Central Research Institute as Technical Supervisor and was thereafter promoted to the post of Assistant Technical Officer. The respondent filed an OA before the learned CAT alleging that an advertisement has been issued by the present petitioners and the respondent was also eligible to be

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Whether reporters of local newspapers may be allowed to see the judgment? Yes.

appointed as Deputy Assistant Director. It was alleged that the present petitioners gave appointments to 3 persons by way of ad hoc promotion who were regularized in 2004. However, the claim of the present respondent against the vacancy created on 15.3.2004 was not considered alongwith three others who were regularized in April, 2004 when the vacancy was available. The respondent prayed that she was entitled to be considered for appointment to the post of Assistant Director. An OA was filed before the CAT, who vide its impugned order passed the following direction:

> *"Pending finalization of recruitment against the vacant posts of Deputy Assistant Director (NM) in the respondent Institute, respondents are directed to consider and appoint the eligible persons on these posts by giving them promotion on adhoc basis within one month from the date of receipt of a copy of this order, subject, however, to the condition that such promotees shall have to vacate the posts on appointment of the regularly selected candidates."*

No directions were given that the claim of the application for promotion should also be considered or not against the vacant post. It is, therefore, clear that the directions issued by the learned CAT were general in nature that the post should be filled on ad hoc basis till the rules are framed and regular appointments are made. During the course of the arguments, it was conceded by the learned counsel for the petitioners that no reference has been made to the Public Service Commission for filling up the posts on regular basis. No such steps have also been taken by the petitioners for filling the post of Deputy Assistant Director on ad hoc basis as directed by the learned CAT. It is, therefore, clear that the said order was passed by the learned CAT on May 17, 2007 and one month's time was given from the date of receipt of copy of the order to fill the post on ad hoc basis. However, neither any steps were taken for regular appointment or for filling the post on ad hoc basis and the present

petition was filed after a lapse of sufficient time on 30.8.2007 and no prayer was made for early hearing or extension of the time granted by the learned CAT so that the order passed could be implemented well within the time granted by the learned CAT. We can read in between the lines that though the post was vacant since 15.3.2004, but the same is not being filled though the respondent is one of the candidates for consideration and it is, therefore, clear that the petitioners have not taken appropriate steps to comply with the orders passed by the learned CAT for the reasons best known to them and they may be even liable for contempt of court for not complying with the order within the period given to them. In such circumstances, when the directions issued by the learned CAT were general in nature and no specific directions were even given in regard to the claim of the respondent and the petitioners have flouted the orders passed by the learned CAT, the said order passed giving general directions for filling up the post on ad hoc basis do not suffer from any illegality to be interfered with. However, in view of the facts of the case that the petitioners have taken sufficient time and had still not complied with the orders passed by the learned CAT, it is directed that the post of the Deputy Assistant Director in question shall be filled on or before 15.10.2007 positively by the petitioners, failing which, they shall be liable for contempt. There is no merit in the petition and as such the petition filed by the petitioner is dismissed accordingly with no order as to costs.

Dasti copy.

(Deepak Gupta), J.

(V.K. Ahuja), J.

September 26, 2007. (tilak)